

## INITIATIVE 905

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 905 to the People is a true and correct copy as it was received by this office.

AN ACT Relating to protecting the initiative and referendum process; adding new sections to chapter 29A.72 RCW; and creating new sections.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

### POLICIES AND PURPOSES

NEW SECTION.     **Sec. 1.**     The citizens' right of initiative and referendum must be protected from the perpetual efforts of politicians to sabotage it. As guaranteed by the Washington state constitution: "The first power reserved by the people is the initiative." The right of the people to petition and legislate through the initiative and referendum is a fundamental right protected by the Washington state constitution. It is the intent of the people that laws and regulations adopted regarding the initiative and referendum process be construed to facilitate the initiative and referendum process. In any legal challenge, laws or regulations regarding the initiative or referendum process shall be reviewed with a legal standard of strict scrutiny by the courts to ensure protection of the citizens' rights to the initiative and referendum process. This measure would prohibit laws

that change the initiative process from taking effect until approved by a majority of voters at a general election, nullify non-voter approved laws changing the process adopted after January 1, 2005, and provide judicial review of legislative efforts to hinder the right of referendum through indiscriminate use of emergency clauses. The Legislature's ongoing assault against the citizens' initiative process, if successful, will stop the citizens' right to vote on conservative, liberal, and nonpartisan measures in the future. The Legislature's reckless, arbitrary, and capricious overuse of the emergency clause by attaching it to non-emergency legislation has seriously impaired the citizens' right to referendum. Citizens want politicians to keep their hands off the people's initiative. The people find that the existing checks and balances on the citizens' initiative process are more than adequate: The number of signatures necessary to qualify for the ballot is high and no proposed initiative or referendum takes effect without first being approved by a majority of voters. The people further find that many government politicians and bureaucrats are hostile to the citizens' participation in the political process by initiative and referendum. As such, any legislative change, even one that may seem minor, must be viewed with extreme skepticism and must not take effect until approved by a majority of voters at a general election.

NEW SECTION. **Sec. 2.** A new section is added to chapter 29A.72 RCW to read as follows:

The people do not yield their sovereignty to the legislators who represent them. Indeed, of the powers delegated to the Legislature by Article II of the Washington state Constitution, the first right reserved to the people is that of initiative and referendum. The purpose of this Act is to declare the intent of the people of the state of Washington that all laws affecting the right of initiative and referendum are to be construed in such a way as to facilitate, rather than frustrate, the right of initiative and referendum. Legislative amendments that restrict, impede, or increase the burdens and requirements to the exercise of the right to initiative and referendum shall be narrowly construed. To that end, this Act is to be liberally construed to effectuate its purpose of preserving and protecting the peoples' right to initiative and referendum.

NEW SECTION. **Sec. 3.** A new section is added to chapter 29A.72 RCW to read as follows:

Any law that changes the initiative or referendum process shall not take effect until approved by a majority of voters at a general election.

(1) For the purposes of this section, "law that changes the initiative or referendum process" includes, but is not limited to, any law that:

(a) Changes the percentage of signatures necessary to qualify for the ballot;

(b) Changes the requirements for petitions, including changing petition size, requiring witnesses or affidavits for signing petitions, and changing the quantity of signatures per petition;

(c) Changes the requirements for petitioner circulators, including limiting participation based on residency, age, and voter status;

(d) Changes the method of payment to petition circulators compensated for their service;

(e) Changes the procedure for validating or invalidating signatures;

(f) Requires majority voter approval within certain jurisdictions affected by an initiative in order for the initiative to be valid; and

(g) Changes the availability or access to public and private locations to allow petitioning.

(2) This section does not affect any governmental law or regulation required by the Washington state Constitution.

(3) This section applies to the initiative process and the referendum process at the state level.

(4) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law, the United States Constitution, or the Washington state Constitution, the section shall be implemented to the maximum extent that federal law, the United States Constitution, and the Washington state Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

NEW SECTION. **Sec. 4.** A new section is added to chapter 29A.72 RCW to read as follows:

Any law that changes the initiative or referendum process adopted after January 1, 2005 shall be null, void, and of no effect unless approved by a majority of voters at a general election.

(1) For the purposes of this section, "law that changes the initiative or referendum process" includes, but is not limited to, any law that:

(a) Changes the percentage of signatures necessary to qualify for the ballot;

(b) Changes the requirements for petitions, including changing petition size, requiring witnesses or affidavits for signing petitions, and changing the quantity of signatures per petition;

(c) Changes the requirements for petition circulators, including limiting participation based on residency, age, and voter status;

(d) Changes the method of payment to petition circulators compensated for their service;

(e) Changes the procedure for validating or invalidating signatures;

(f) Requires majority voter approval within certain jurisdictions affected by an initiative in order for the initiative to be valid; and

(g) Changes the availability or access to public and private locations to allow petitioning.

(2) This section does not affect any governmental law or regulation required by the Washington state Constitution.

(3) This section applies to the initiative process and the referendum process at the state level.

(4) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law, the United States Constitution, or the Washington state Constitution, the section shall be implemented to the maximum extent that federal law, the United States Constitution, and the Washington state Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

**NEW SECTION.** **Sec. 5.** A new section is added to chapter 29A.72 RCW to read as follows:

(1) Any emergency clause attached to legislation by the Legislature shall be subject to expedited judicial challenge to ensure compliance with the letter and the spirit of the Washington state Constitution, Article II, section 1. A legislative declaration of emergency is a

finding that an enactment is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions.

(2) The Legislature's use of emergency clauses on legislation is a restriction on the people's fundamental right to referendum. Such restrictions must serve a compelling governmental purpose and in any legal challenge, the courts shall review emergency clauses with a legal standard of strict scrutiny of the emergency clause to ensure the protection of the rights of citizens to the referendum process. Absent specific findings of fact by the Legislature demonstrating a compelling governmental purpose for an emergency clause on such legislation, the clause is automatically void without judicial inquiry into the governmental purpose and the people shall have a right to referenda on such legislation.

(3) Any person, after the enactment of legislation containing an emergency clause, may file in the superior court where such person resides or Thurston County superior court, an appeal of the emergency clause on the legislation by petition setting forth the legislation, and their objections to the emergency clause and requesting the court to declare the emergency clause to be of no effect. The court shall determine whether the emergency clause serves a compelling governmental purpose and is therefore a legitimate exercise of the emergency power.

(4) A copy of the petition on appeal together with a notice that an appeal has been taken shall be served upon both houses of the legislature, the code revisor, and upon the attorney general. Upon the filing of the petition on appeal or at the time to which the hearing may be adjourned by consent of the appellant, the court shall accord first priority to examining the legislation and emergency clause, and the objections, and may hear arguments, and shall, within five days, render its decision and file with the code revisor a certified copy of its decision. Review of legislative declarations of emergency under this section shall be de novo, and all presumptions shall be rendered in favor of the peoples' right to referendum. The burden of proof shall be on proponents of the contested emergency declaration to establish a compelling governmental interest justifying exemption from the referendum power.

(5) The decision of the superior court shall be final. Such appeal shall be heard without costs to either party. Consistent with this section requiring laws to be construed to facilitate the initiative and

referendum process, if a referendum is filed on legislation with a contested emergency clause, state officers and agencies shall proceed with processing the referendum pursuant to this chapter pending the outcome of the emergency clause appeal.

NEW SECTION.    **Sec. 6.**    The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act. Laws and regulations adopted regarding the initiative and referendum process shall be construed to facilitate the initiative and referendum process. In any legal challenge, laws or regulations regarding the initiative or referendum process shall be reviewed with a legal standard of strict scrutiny by the courts.

NEW SECTION.    **Sec. 7.**    Part headings used in this act are not any part of the law.

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